REMARKS

Applicants respectfully request reconsideration of the instant application in the view of the foregoing amendments and the following remarks. Claims 1-10 are *pending*. Claim 1 is *independent*. Claims 1 and 7 have been *amended*; although these claims have been amended herein to provide clarification, correct typographical inaccuracies and/or informalities, and/or to better track practical/commercial implementations/practices, Applicants submit that the originally filed claims are patentable and reserve the right to pursue the originally filed claims (as well as any claims dependent therefrom) at a later time and/or in one or more continuation application(s). Applicants submit that these new claims and/or claim amendments are supported throughout the originally filed specification and that no new matter has been added by way of these amendments.

Claim Rejections - 35 U.S.C. § 112

The Office Action rejected claims 1 and 7 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Applicants respectfully traverse and submit that one of ordinary skill in the art would have clearly understood the claims in view of the originally filed specification.

Further, the Examiner has alleged that "[i]n the claim 1, at line 3, 6 and 9, the recitation, 'a **value** of a debt/equity ratio' renders the claim indefinite since it is not clear as it is understood, debt/equity ratio is a number" (emphasis original) (Office Action, p.3). Applicants respectfully traverse and submit that one of ordinary skill in the art, in light of the specification, would understand how the "value" is used within the context of the claim taken as a whole. Should the Examiner maintain the rejection, Applicants respectfully request clarification as to how the Examiner believes the cited portion of the claim elements is allegedly unclear.

The Examiner has further alleged that "[i]n the claim 1, at lines 12, 14 and 17, and claims 3 and 5 at lines 2, the recitations, 'earnings per share risk values', renders the claim indefinite, since it is not clear" (Office Action, p.3). Applicants respectfully traverse and submit that one of ordinary skill in the art, in light of the specification, would understand how the "earnings per share risk values" are used within the context of the claim taken as a whole. Should the Examiner maintain the rejection, Applicants respectfully request clarification as to how the Examiner believes the cited portion of the claim elements is allegedly unclear.

The Examiner has also rejected claim 7 asserting that the claim is "indefinite" (Office Action p.3). Applicants have amended claims 7 to provide clarification, better track current commercial implementations, and/or correct minor informalities. Applicants respectfully submit that the rejection is moot in light of the amendments to claim 7.

Accordingly, Applicants respectfully request reconsideration and withdrawal of this basis of rejections.

Claim Rejections - 35 U.S.C. § 103

The Office Action rejected claims 1-10 under 35 U.S.C. § 103(a) as being unpatentable over Ichihari et al, US Patent No. 2003/0046203 (hereinafter "Ichihari"), and in further view of Vass, US Patent No. 7,251,627 (hereinafter "Vass"). Applicants respectfully traverse the rejections and request clarification of an inconsistency in the § 103 rejections. Applicants note with regard to independent claim 1, the Examiner states "Ichihari discloses… iteratively changing a value of a debt/equity ratio associated with the entity (**para 0062-0063**; via an enterprise makes loss as a result of volatility of earnings by a business risk [implied reiteration of stock prices resulting repeated change of debt/equity ratio])" (emphasis original) (Office Action, p. 3-4). However, on page 5 of the pending Office Action,

the Examiner states "Ichihari fails explicitly to disclose iteratively changing, with the computer system, a value of debt/equity ratio associated with the entity" (emphasis original) (Office Action, p. 5) and turns to Vass to remedy the deficiencies in Ichihari. Accordingly, Applicants request clarification regarding the § 103 rejection of claim 1 based on Ichihari in view of Vass.

Furthermore, Applicants respectfully submit that a *prima facie* case of obviousness has not been established.

MPEP § 706.02(j) prescribes that a rejection under 35 U.S.C. § 103 should set forth:

> (i) the relevant teachings of the prior art relied upon,
> (ii) the differences in the claim over the applied references,
> (iii) the proposed modification of the applied references to arrive at the claimed subject matter, and
> (iv) an explanation as to why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made.

Applicants submit that the rejections in the pending Office Action do not establish each of these requirements. More specifically, Applicants submit that, by over-generalizing the applied references, the rejections in the Office Action do not establish at least either of the first two elements of a prima facie case of obviousness.

Amended independent claim 1 recites, *inter alia*:

> A method implemented by a programmed computer system comprising the steps of:
> iteratively changing, with the computer system, a value of a debt/equity ratio associated with an entity, wherein each changed debt/equity ratio value is an output of one or more simulations;

Applicants submit that the applied references, taken alone or in combination, do not discuss or render obvious at least these elements recited in amended independent claim 1.

Applicants note that the pending rejection states that "Ichihari discloses… iteratively changing a value of a debt/equity ratio associated with the entity (**para 0062-0063**; via an enterprise makes loss

as a result of volatility of earnings by a business risk [implied reiteration of stock prices resulting repeated change of debt/equity ratio])" (emphasis original) (Office Action, p. 3-4). Applicants respectfully traverse this argument and submit that Ichihari does not discuss or render obvious at least the claimed "iteratively changing, with the computer system, a value of a debt/equity ratio associated with an entity, wherein each changed debt/equity ratio value is an output of one or more simulations," as recited in amended independent claim 1.

Instead, Applicants note that Ichihari discusses "a method for providing an index used to measure performance of an entire enterprise or business units in the enterprise, or evaluate a new business to be started" (Ichihari, § [0001]). In contrast to the Examiner's assertions, the cited paragraphs of Ichihari simply discuss "a relationship among the earnings probability distribution, capital composition, and default probability" (Ichihari, § [0063]). The cited paragraphs of Ichihari discuss determining "the optimum debt/equity ratio" (Ichihari, § [0062]). Ichihari also discusses indicating that using the optimum debt/equity ratio and other "calculated values, the weighted average cost of capital is calculated in step **114**" (emphasis original) (Ichihari, § [0068]) to determine "the market efficiency value added (MEVA) in step **122**" (emphasis original) (Ichihari, § [0069]). As such, Applicants submit Ichihari's optimum debt/equity ratio is different from the claimed "iteratively changing, with the computer system, a value of a debt/equity ratio associated with an entity, wherein each changed debt/equity ratio value is an output of one or more simulations," as recited in amended independent claim 1.

Applicants note that the pending rejection also states that "Ichihari fails explicitly to disclose iteratively changing, with the computer system, a value of a debt/equity ratio associated with the entity" (Office Action, p. 5, § 2). The pending rejection relies on Vass col. 4, lines 9-13 and 50-54 to remedy Ichihari's deficiency and alleges that "Vass being in the same field of invention discloses iteratively

changing, with the computer system, a value of a debt/equity ratio associated with the entity… via inherent and implied NYSE's reiteratively changes of stock prices resulting debt/equity ratio change for all stocks" (Office Action, p. 5, § 3). Applicants respectfully traverse this argument and submit that, like Ichihari, Vass also does not discuss or render obvious at least the claimed "iteratively changing, with the computer system, a value of a debt/equity ratio associated with an entity, wherein each changed debt/equity ratio value is an output of one or more simulations," as recited in amended independent claim 1.

Instead, Applicants note that Vass discusses a "method of identifying a universe of stock for inclusion into an investment portfolio" (Vass, Abstract, lines 1-2). In contrast to the Examiner's assertions, the cited paragraphs of Vass simply discuss setting "a threshold for the debt to equity ratio for all stocks selected into the universe" (Vass, col. 4, lines 52-53). Vass also discusses indicating that one "of the criteria established in the screening process includes determining… whether the stocks meet a certain debt to equity ratio over a predetermined period of time" (Vass, Abstract, lines 12-16). Applicants submit Vass uses debt/equity ratio as simply a screening parameter to determine portfolio components. Although, Vass's universe/portfolio components may have different debt/equity ratios over time, Vass's system does not discuss or render obvious "iteratively changing, with the computer system, a value of a debt/equity ratio associated with an entity, wherein each changed debt/equity ratio value is an output of one or more simulations," as recited in amended independent claim 1.

In summary, Applicants submit that the applied references, taken alone or in combination, do not discuss or render obvious at least the claimed "iteratively changing, with the computer system, a value of a debt/equity ratio associated with an entity, wherein each changed debt/equity ratio value is an output of one or more simulations," as recited in amended independent claim 1.

Furthermore, Applicants submit claims 2-10, which are directly or indirectly dependent from independent claim 1, are also not discussed or rendered obvious by the cited references, taken alone or in combination, for at least similar reasons to those discussed above identifying deficiencies in the applied references with regard to independent claim 1. Accordingly, Applicants respectfully request reconsideration and withdrawal of this basis of rejections.

Conclusion

Consequently, the reference(s) cited by the office action do not result in the claimed invention, there was/is no motivation, basis and/or rationale for such a combination of references (i.e., cited references do not teach, read on, suggest, or result in the claimed invention(s)), and the claimed inventions are not admitted to be prior art. Thus, the Applicants respectfully submit that the supporting remarks and claimed inventions, claims 1-10, all: overcome all rejections and/or objections as noted in the office action, are patentable over and discriminated from the cited reference(s), and are in a condition for allowance. Furthermore, Applicants believe that the above remarks, which distinguish the claims over the cited reference(s), pertained only to noted claim element portions. These remarks are believed to be sufficient to overcome the prior art. While many other claim elements and/or bases for rejection were not discussed as they have been rendered moot based on the above amendments and/or remarks, Applicants assert that all such remaining and not discussed claim elements and/or bases for rejection, all, also are distinguished over the prior art and reserve the opportunity to more particularly traverse, remark and distinguish over any such remaining claim elements and/or bases for rejection at a later time should it become necessary. Further, any remarks that were made in response to an Office Action objection and/or rejection as to any one claim element, and which may have been re-asserted as applying to another Office Action objection and/or rejection as to any other claim element(s), any such re-assertion of remarks is not meant to imply that there is commonality about the structure,

functionality, means, operation, and/or scope of any of the claim elements, and no such commonality is admitted as a consequence of any such re-assertion of remarks. As such, Applicants do not concede that any claim elements have been anticipated and/or rendered obvious by any of the cited reference(s). Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection(s) and/or objection(s), and allowance of all claims.

AUTHORIZATION

The Commissioner is hereby authorized and requested to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 03-1240, Order No. 17209-503. In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized and requested to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 03-1240, Order No. 17209-503.

In the event that a telephone conference would facilitate examination of the application in any way, the Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,
CHADBOURNE & PARKE LLP

Dated: July 2, 2009

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